REMARKS

Forty-two claims are pending in the present Application. Claims 1-7, 10-14, 16-27, 30-34, and 36-42 currently stand rejected. Claims 8-9, 15, 28-29, and 35 are allowed. Accordingly, claims 1, 14, 21, 34, and 41 are amended herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

Rejection under 35 U.S.C. §112, Second Paragraph

On page 2 of the Office Action, the Examiner indicates that claims 14 and 34 are rejected because "[t]here are insufficient bases" for certain limitations. Furthermore, on page 11, the Examiner indicates that claims 14 and 34 "would be allowable" if the foregoing rejections are overcome. According, Applicants herein amend claims 14 and 34 to remedy the foregoing informalities with respect to sufficient antecedent basis for Applicants' claimed limitations. In view of the foregoing remarks and amendments, Applicants believe that the Examiner's rejections are addressed, and respectfully request that the rejections under 35 U.S.C. §112, second paragraph, be withdrawn so that claims 14 and 34 may issue in a timely manner.

35 U.S.C. § 102(b)

On page 2 of the Office Action, the Examiner rejects claims 1, 21, 41, and 42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,850,472 to Alston et al. (hereafter Alston). The Applicants respectfully traverse these rejections for at least the following reasons.

"For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Alston fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner's rejections of independent claims 1, 21, and 41, Applicants respond to the Examiner's §102 rejections as if applied to amended independent claims 1, 21, and 41 which now recite *"said transformation manager utilizing interpolation techniques to interpolate additional transformation parameters that are not initially available to said transformation manager, said additional transformation parameters being directly applied by said transformation manager to said primary image data to thereby minimize said noise characteristics in said secondary image data"* (emphasis added), which are limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto.

Alston teaches utilizing a "computer controlled color video camera" for "measurement of the color and appearance of samples" (column 2, lines 10-15). On page 3 of the Office Action, the Examiner cites column 11, line 32, to column

12, line 28, of Alston against Applicants' claimed limitations of "*utilizing transformation parameters that are optimized to minimize noise characteristics.*" Applicants respectfully traverse. Applicants submit that column 11, line 32, to column 12, line 28, of Alston is limited to discussing formulas for converting "RGB values" to "CIE XYZ values" (see column 11, lines 25-33). Column 11, line 32, to column 12, line 28, of Alston nowhere discloses or suggests using transformation parameters that are "*optimized to minimize noise characteristics,*" as expressly claimed by Applicants (emphasis added).

Furthermore, as discussed above, Applicants also submit that Alston fails to teach "*said transformation manager utilizing interpolation techniques to interpolate additional transformation parameters*" that are performed specifically "*to thereby minimize said noise characteristics in said secondary image data,*" as recited in amended claims 1, 21, and 41 (emphasis added). On page 3 of the Office Action, the Examiner attempts to analogize "gloss readings" to Applicants' interpolation of parameters for minimizing "noise characteristics." Applicants respectfully traverse, and submit that the "gloss readings" are based upon reflectance values and not "noise characteristics," as claimed by Applicants. For at least the foregoing reasons, Applicants submit that claims 1, 21, and 41 are not anticipated by Alston.

With regard to claim 42, "means-plus-function" language is utilized to recite elements and functionality similar to those recited in claims 1 and 21, as discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 42. In addition, the Courts have frequently held that

"means-plus-function" language, such as that of claim 42, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof. Applicants respectfully submit that, in light of the substantial differences between the teachings of Alston and Applicants' invention as disclosed in the Specification, claim 42 is therefore not anticipated or made obvious by the teachings of Alston.

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Alston to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of claims 1, 21, 41 and 42, so that these claims may issue in a timely manner.

On page 3 of the Office Action, the Examiner rejects claims 1, 21, and 41-42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,459,425 to Holub et al. (hereafter Holub). The Applicants respectfully traverse these rejections for at least the following reasons.

"For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Holub fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner's rejections of independent claims 1, 21, and 41, Applicants respond to the Examiner's §102 rejections as if applied to amended independent claims 1, 21, and 41 which now recite *""said transformation manager utilizing interpolation techniques to interpolate additional transformation parameters that are not initially available to said transformation manager, said additional transformation parameters being directly applied by said transformation manager to said primary image data to thereby minimize said noise characteristics in said secondary image data"* (emphasis added), which are limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto.

Holub teaches utilizing a "color measuring instrument" to calibrate a color display (see column 9, lines 40-55). However, Applicants respectfully submit that Holub nowhere discloses any type of "*electronic camera*" as expressly recited by Applicants. On page 4 of the Office Action, the Examiner cites column 25 and column 26 of Holub against Applicants' claimed limitations of "*transformation parameters that are optimized to minimize noise characteristics.*" Applicants respectfully traverse, and submit that the cited section of Holub discusses only "error minimization" for "color and summary statistics". Applicants submit that Holub nowhere discloses or suggests using transformation parameters that are "*optimized to minimize noise characteristics,*" as expressly claimed by Applicants (emphasis added).

On page 4 of the Office Action, the Examiner cites columns 29 and 33 against Applicants' claimed limitations of "*interpolation techniques.*" Applicants

respectfully traverse, and submit that the cited passages in Holub are limited to vaguely mentioning the word "interpolation" in calculations related to "evaluating" various types of "color" functions. Applicants submit that Holub nowhere teaches performing any type of interpolations that result in "*said additional transformation parameters being directly applied by said transformation manager to said primary image data to thereby minimize said noise characteristics in said secondary image data.* For at least the foregoing reasons, Applicants submit that claims 1, 21, and 41 are not anticipated by Holub.

With regard to claim 42, "means-plus-function" language is utilized to recite elements and functionality similar to those recited in claims 1 and 21, as discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 42. In addition, the Courts have frequently held that "means-plus-function" language, such as that of claim 42, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof. Applicants respectfully submit that, in light of the substantial differences between the teachings of Holub and Applicants' invention as disclosed in the Specification, claim 42 is therefore not anticipated or made obvious by the teachings of Holub.

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Holub to identically teach the claimed invention, Applicants

respectfully request reconsideration and allowance of claims 1, 21, and 41-42, so that these claims may issue in a timely manner.

35 U.S.C. § 103

On page 4 of the Office Action, the Examiner rejects claims 1, 16-20, 21, and 36-41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,805,213 to Spaulding et al. (hereafter Spaulding) in view of Holub. The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

> "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejections of independent claims 1, 21, and 41, Applicants respond to the Examiner's §103 rejections as if applied to amended independent claims 1, 21, and 41 which now recite *"said transformation manager utilizing interpolation techniques to interpolate additional transformation*

parameters that are not initially available to said transformation manager, said additional transformation parameters being directly applied by said transformation manager to said primary image data to thereby minimize said noise characteristics in said secondary image data" (emphasis added), which are limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto.

Spaulding teaches performing a procedure to "color-correct multichannel color image signals from a digital camera to account for variations in scene illuminant . . . that minimizes color errors . . . ." (emphasis added) (see column 5, lines 34-40). On page 5 of the Office Action, the Examiner cites column 9, line 5, to column 10, line 9, of Spaulding against Applicants' claimed limitations of "*utilizing transformation parameters that are optimized to minimize noise characteristics.*" Applicants respectfully traverse. Applicants submit that column 9, line 5, to column 10, line 9, of Spaulding is limited to discussing formulas for performing an "optimum color-correction transformation" (see column 9, lines 15-33). Column 9, line 5, to column 10, line 9, of Spaulding nowhere discloses or suggests using transformation parameters that are "*optimized to minimize noise characteristics,*" as expressly claimed by Applicants (emphasis added).

Furthermore, as discussed above, Applicants also submit that Spaulding fails to teach "*said transformation manager utilizing interpolation techniques to interpolate additional transformation parameters,*" as recited in amended claims 1, 21, and 41 (emphasis added). On page 6 of the Office Action, the Examiner concedes that "Spaulding does not teach the feature related to "utilizing

interpolation techniques . . . ." Applicants concur. The Examiner the points to Holub to purportedly remedy these deficiencies in Spaulding. Applicants respectfully traverse.

On page 4 of the Office Action, the Examiner cites columns 29 and 33 against Applicants' claimed limitations of "*interpolation techniques.*" Applicants submit that the cited passages in Holub are limited to vaguely mentioning the word "interpolation" in calculations related to "evaluating" various types of "color" functions. Applicants submit that Holub nowhere teaches performing any type of interpolations that result in "*said additional transformation parameters being directly applied by said transformation manager to said primary image data to thereby minimize said noise characteristics in said secondary image data.* For at least the foregoing reasons, Applicants submit that claims 1, 21, and 41 are not unpatentable over Spaulding in view of Holub.

Regarding the Examiner's rejection of dependent claims 16-20 and 36-40, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 16-20 and 36-40, so that these claims may issue in a timely manner.

With further regard to the rejections of claims 20 and 40, the Examiner cites FIG. 3 and column 6, lines 25-55, of Spaulding against Applicants' claimed

limitations that "*said transformation manager accesses parameter lookup tables of said transformation parameters, said transformation manager interpolating appropriate ones of said transformation parameters depending upon said current camera gain and said current illuminant,*" (emphasis added). Applicants respectfully submit that column 6, lines 25-55, of Spaulding is directed toward a generic "digital camera," and nowhere discussed either "*parameter lookup tables*" or "*interpolating,*" as expressly recited by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 1, 16-20, 21, and 36-41 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1, 16-20, 21, and 36-41 under 35 U.S.C. § 103.

On page 7 of the Office Action, the Examiner rejects claims 2-7, 10, 13, 22-27, 30, and 33 under 35 U.S.C. § 103(a) as being unpatentable over Spaulding and Holub in view of U.S. Patent No. 6,049,626 to Kim (hereafter Kim). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

> "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine

reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 2-7, 10, 13, 22-27, 30, and 33, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims 2-7, 10, 13, 22-27, 30, and 33, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

In addition, on page 8 of the Office Action, the Examiner concedes that the combination of cited references "does not teach the features related to YCbCr." Applicants concur. The Examiner then points to Kim to purportedly remedy these deficiencies. In particular, the Examiner cites column 6, lines 1-15, of Kim as support for concluding that "YUV is also called YCbCr." Applicants respectfully disagree. Applicants submit that their claimed "YCbCr" format is not identical to the "YUV" format disclosed in Kim. Applicants further submit that column 6, lines 1-15, of Kim fails to specifically mention either "YCbCr" or any grounds for equating the claimed "YCbCr" and the "YUV" mentioned by Kim. Applicants therefore submit that the rejections of claims 2 and 22 are improper.

With further regard to the rejections of claims 2-7, 10, 13, 22-27, 30, and 33, Applicants submit that image data transformation procedures have been

known in the corresponding art for some time. Applicants submit that their unique solution for "*minimizing noise characteristics*" to efficiently perform their claimed "*image data transformation procedure*" indicates the clear existence of secondary indicia of non-obviousness. For example, there apparently has been a long-felt need for Applicants' solution in the relevant technological field. Furthermore, other entities and individuals in analogous arts have apparently failed to successfully overcome the foregoing problems in the manner disclosed by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 2-7, 10, 13, 22-27, 30, and 33 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 2-7, 10, 13, 22-27, 30, and 33 under 35 U.S.C. § 103.

On page 10 of the Office Action, the Examiner rejects claims 11-12 and 31-32 under 35 U.S.C. § 103 as being unpatentable over Spaulding, Holub, and Kim in view of U.S. Patent No. 6,505,002 to Fields (hereafter Fields). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie*

case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 11-12 and 31-32, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims 11-12 and 31-32, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

In addition, on page 11 of the Office Action, the Examiner concedes that the combination of Spaulding, Holub, and Kim "does not teach the feature related to that the second luminance value "Y2" is a simple unprocessed average." Applicants concur. The Examiner then points to Fields to purportedly remedy these deficiencies. In particular, the Examiner cites column 31, line 27-52, of Fields as support for rejecting Applicants' claimed "simple unprocessed average." Applicants respectfully disagree. Column 31, line 27-52, of Fields is limited to discussing a "brightest block searching circuit" that locates a "brightest block of all the blocks in the image signal" (column 31, lines 27-28). Applicants submit that column 31, line 27-52, of Fields nowhere discloses a "second luminance value" that is a "simple unprocessed average," as claimed by Applicants.

Furthermore, on page 10 of the Office Action, the Examiner cites column 8, lines 10-27, of Kim against Applicants' calculations for a "final luminance value" in claims 12 and 22. Applicants traverse. Column 8, lines 10-27, of Kim is limited to discussing a "compensation line . . . for the color signals . . . of a color signal." Applicants submit that column 8, lines 10-27, of Kim are directed to

calculations of color values, not a "final luminance value," as claimed by Applicants. Applicants also submit that column 8, lines 10-27, of Kim fails to disclose a "first luminance value" or a "second luminance value."

With further respect to the rejections of claims 11-12 and 31-32, the Court of Appeals for the Federal Circuit has held that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination." In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that the particular combination of claimed limitations would not be obvious to one skilled in the art at the time of the invention.

In particular, on page 11 of the Office Action, the Examiner concludes that "[i]t would have been obvious to one in the ordinary skill in the art . . . because the combination improves process flexibility." Applicants respectfully submit that a *general restatement of the advantages disclosed by the Applicants* deriving from implementation of the present invention cannot act as the required teaching or suggestion to combine cited references for a proper rejection under 35 U.S.C. § 103. Courts have repeatedly held that "it is impermissible . . . simply to engage in *hindsight reconstruction* of the claimed invention, using the Applicants' structure as a template and selecting elements from references to fill in the gaps." In re Gorman, 18 USPQ 1885, 1888 (CAFC 1991).

For at least the foregoing reasons, the Applicants submit that claims 11-12 and 31-32 are not unpatentable under 35 U.S.C. § 103 over the cited references,

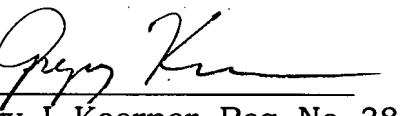
and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 11-12 and 31-32 under 35 U.S.C. § 103.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-42, so that the present Application may issue in a timely manner. If there are any questions concerning this Response, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: 5/8/07

By: 

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